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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON : 11th APRIL, 2017

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PREM CHAND **W.P.(CRL) 397/2016**

..... Petitioner

Through : Mr.Kamal Mehta, Advocate.

versus

THE STATE OF DELHI & ANR Respondents

Through : Ms.Richa Kapoor, ASC with SI Monu Chauhan, PS F.Beri.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present writ petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. has been preferred by the petitioner for quashing of the FIR No.614/2015 registered under Sections 354/509 IPC at PS Farsh Bazar. Status report is on record.

2. I have heard the learned counsel for the parties and have examined the file. Petitioner's counsel urged that false allegations have been levelled by the complainant to grab the property in question. Various civil suits were pending regarding the suit property prior to the registration of the FIR. The FIR in question is a counterblast of FIR bearing No.385/2011 registered against the complainant and her husband. The petitioner was not present at the spot at the relevant time. His attendance

record at the office revealed that he was present on duty on 28.07.2015 from 09:07:01 hours to 18:26:13 hours.

3. In her complaint forming basis of the FIR, the complainant named the petitioner to have outraged her modesty. She disclosed that earlier a quarrel had taken place with the petitioner on 28.07.2015 at around 10.15 a.m. The information was conveyed to the police and DD No.13A came into existence. At around 10.00 a.m. she had gone to the terrace to dry wet clothes. The petitioner snatched her bucket and threw it on the ground; he abused her in filthy language. On the same day at about 05.00 p.m. again the petitioner abused her in filthy language; caught her hair; dragged her and hit on her chest with hands. DD No.60B came to be recorded on 28.07.2015 at 07.30 p.m. In her 164 Cr.P.C. statement recorded on 31.07.2015 the complainant reiterated her version given to the police.

4. Copies of the DD No.13A and 49B are on record which prima facie show that an altercation had taken place between the petitioner and the complainant at two different stages one earlier in the morning and the other at around 05.00 p.m. The plea of alibi set up by the petitioner is to be taken care of during trial. At the stage of quashing of the FIR in question, allegations in the complaint cannot be out-rightly rejected or disbelieved. Both the parties are closely related to each other. Property dispute exists between them and various litigations have been filed. Status report reveals that investigation is complete and charge-sheet has been prepared to be submitted soon. It does not reveal if the petitioner was present on duty in the office on the relevant date. PCR Form (Annexure 'E') records "Bhaiyon Ki Kahasuni"; apparently, showing the presence of the petitioner at the spot at the time of quarrel in the morning.

5. The allegations are specific and definite. Truthfulness and falsity of the allegations primarily pertains to the realm of the evidence and cannot be gone through at this stage.
6. The petitioner will be at liberty to raise all these issues before the Trial Court at the time of consideration of charge.
7. The petition lacks in merits and is dismissed.
8. Observations in the order shall have no impact on merits of the case.

(S.P.GARG)
JUDGE

APRIL 11, 2017 / *tr*